

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION**

|                                      |   |                       |
|--------------------------------------|---|-----------------------|
| Ras Imhotep Rahim,                   | ) |                       |
|                                      | ) | No. 9:17-cv-00896-DCN |
| Plaintiff,                           | ) |                       |
|                                      | ) |                       |
| vs.                                  | ) |                       |
|                                      | ) | <b>ORDER</b>          |
| Thomas Thrash, Jr., Jane Doe Thrash, | ) |                       |
| Harold L. Murphy, Jane Doe Murphy,   | ) |                       |
| John Horn and Jane Doe Horn,         | ) |                       |
|                                      | ) |                       |
| Defendants.                          | ) |                       |
| _____                                | ) |                       |

This matter is before the court on United States Magistrate Judge Bristow Marchant’s report and recommendation (“R&R”), ECF No. 10, that the court dismiss this action without prejudice in accordance with Rule 41 of the Federal Rules of Civil Procedure. For the reasons set forth below, the court adopts the R&R and dismisses this case without prejudice.

**I. BACKGROUND**

Plaintiff Ras Imhotep Rahim, who is an inmate housed by the Federal Bureau of Prisons at FCI Estill, filed this action pro se, alleging various claims against the named defendants.

The magistrate judge issued an order on June 16, 2017, providing plaintiff with explicit instructions and a timeline to bring this case into proper form for evaluation and possible service of process, ECF No. 8. The order specifically warned plaintiff that failure to do so would subject the case to dismissal.

After the time to bring the case into proper form lapsed, the magistrate judge issued the R&R on July 18, 2017, recommending dismissal without prejudice. The R&R

specifically advised plaintiff of the procedures for filing objections thereto and the consequences if he failed to do so. The deadline for filing objections has expired, and none have been filed. The matter is now ripe for the court's review.

## **II. STANDARDS OF REVIEW**

The magistrate judge's recommendation does not carry presumptive weight, and it is the court's responsibility to make a final determination. Mathews v. Weber, 423 U.S. 261, 270–71 (1976). The court is charged with conducting a de novo review of any portion of the magistrate judge's report to which specific, written objections are made, and may "accept, reject, or modify, in whole or in part," the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, in the absence of a timely filed, specific objection, the court reviews the R&R only for clear error. Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (citation omitted). Furthermore, the failure to file specific written objections to the R&R results in a party's waiver of the right to appeal from the judgment of the district court based upon such recommendation. United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Rule 41(b) governs involuntary dismissals, providing: "[i]f the plaintiff fails to prosecute or to comply with . . . a court order, a defendant may move to dismiss the action . . . . Unless the dismissal order states otherwise, a[n] [involuntary] dismissal . . . operates as an adjudication on the merits." Fed. R. Civ. P. 41(b). The Court may invoke Rule 41(b) sua sponte to dismiss an action for failure to prosecute or comply with a court order. See Link v. Wabash R.R. Co., 370 U.S. 626, 630–31 (1962) ("The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an 'inherent power,' governed not by rule or statute but by the control necessarily vested in

courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”).

### **III. DISCUSSION**

In the present case, no objections to the R&R have been filed. Therefore, the court reviews the R&R only for clear error. ““A finding is clearly erroneous when although there is evidence to support it, the reviewing [body] on the entire evidence is left with the definite and firm conviction that a mistake has been committed.”” Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Tr. for S. Cal., 508 U.S. 602, 622 (1993) (alteration in original) (quoting United States v. U.S. Gypsum Co., 333 U.S. 364, 395 (1948)).

After reviewing the record in this case, the applicable law, and the R&R under a “clear error” lens, the court agrees with the recommendation of the magistrate judge and finds that the plaintiff has failed to prosecute and failed to comply with the court’s orders.

### **IV. CONCLUSION**

For the reasons set forth above, the court **ADOPTS** the R&R, ECF No. 10, and dismisses this case without prejudice.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'David C. Norton', is written over a horizontal line.

**DAVID C. NORTON**  
**UNITED STATES DISTRICT JUDGE**

**August 8, 2017**  
**Charleston, South Carolina**